IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

INCOME TAX APPEAL NO. 340 OF 2002

The Commissioner of Income tax,
Mumbai-III .. appellant

v/s.

M/s. Powerica Ltd. .. Respondent

Ms. S.V.Bharucha i/by Mr.H.D.Rathod for appellant.

Mr.T.N.Tripathi for respondent.

CORAM : R.M.LODHA AND
J.P.DEVADHAR, JJ.

DATED : 18th August, 2004

P.C.

In the memorandum of appeal, two substantial questions of law have been proposed which read thus-

1. "Whether on the facts and circumstances of the case and in law, the Hon'ble ITAT, was justified in deleting addition of Rs.12,89,954/- made to the closing stock on account of Modvat credit?"

2. "Whether on the facts and circumstances of the case and in law, the Hon'ble ITAT was justified in directing the Assessing Officer for grant of deduction u/s.32 AB on the advance payment for computers by the Assessee?"

2. In so far as the first question is concerned, the learned counsel for the revenue fairly concedes that the controversy raised in that question stands concluded by the judgment of the Supreme Court in the case of Commissioner of Income-Tax v. Indo Nippon Chemicals Co.Ltd., 261 ITR 275. Obviously, therefore, the first question cannot be said to be

the substantial question of law.

3. As regards question No.2, we find that the controversy stands concluded by the Division Bench judgment of this court in the case of Commissioner of Income-Tax v. Antifriction Bearings Corporation Ltd., 246 ITR 295. In this view of the matter, the proposed question No.2 also cannot be said to be the substantial question of law.

4. Appeal is dismissed in limine.

(R.M.LODHA, J.)

(J.P. DEVADHAR, J.)